

IN THE STATE COURT OF HARALSON COUNTY
STATE OF GEORGIA

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CLERK OF SUPERIOR COURT
HARALSON COUNTY, GA
2021 JUL 14 PM 12:41

HERBERT H. HOWARD,

Plaintiff

vs.

CENTRAL TRANSPORT COMPANY;
CHEROKEE INSURANCE COMPANY,

Defendants

CIVIL ACTION

FILE NO: 21-cv-331-MHM

COMPLAINT

COME NOW, Plaintiff, Herbert H. Howard, and hereby sue Defendants, CENTRAL TRANSPORT COMPANY and CHEROKEE INSURANCE COMPANY, alleging as follows:

1. On July 18, 2019, while Plaintiff Howard was at work hauling liquid bulk in his 2006 Freightliner Tractor and Trailer, when his trailer was struck by Caleb Carter, while plaintiff was traveling down Hwy. 20 West, at mile marker 6.5, in Harelson County, Georgia, a driver employed by and working at that time for Central Transport Company, causing severe damage to the Tractor and Trailer and injuring plaintiff internally from the impact.

2. The accident occurred on Hwy. 20 West, at mile marker 6.5, in Harelson County, Georgia.

3. Plaintiff Herbert H. Howard resides at 405 Poplar Street, Grenada, Mississippi 38901.

4. Defendant Central Transport Company ("Defendant") is a corporation authorized to do business in the State of Georgia, Alabama, Michigan, and Indiana. This Defendant is subject to the jurisdiction of this

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Amber R. Jones
CLERK OF
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HARALSON COUNTY, GA

Court. This Defendant may be served with process at the office of its registered agent for service of process, Cogency Global, Inc., 900 Old Roswell Lakes Parkway, Suite 310, Roswell, GA 30076. Venue is proper in this Court pursuant to O.C.G.A. § 33-4-1.

4.1 Defendant Cherokee Insurance Company ("Defendant") is a corporation authorized to do business in the State of Michigan and in the State of Georgia through it's authorized agents and representatives. Defendant is subject to the jurisdiction of this Court. Defendant may be served with process at the office of its registered agent for service of process, Mark J. Dedabbo, 34200 Mound Road, Sterling Heights, MI 48310. Venue is proper in this Court pursuant to O.C.G.A. § 33-4-1.

5. Defendant Cherokee Insurance Company issued an insurance policy contract, given policy number CA190010, with the insured being Caleb Carter. such insurance was active and valid on July 18, 2019. A certified copy of the Police Report will be produced in discovery.

6. On July 18, 2019, Carter was the cause of the accident which severely and permanently injured the plaintiff, causing internal injury to plaintiff, loss of income, damage to plaintiff's property, and partial disability. Carter's actions was a direct result of all such damages suffered by plaintiff in the accident on July 18, 2021. Carter's speeding, inattentiveness, distracted driving, failure to maintain lane, and/or otherwise negligent and/or reckless driving caused the collision between the trucks owned by Central Transport and operated by Carter on such company's behalf, with

insurance coverage by defendant, Cherokee Insurance Company.

7. Carter was, at least, negligent in crossing over the highway into Plaintiff's lane of travel and striking the tractor trailer operated by plaintiff.

8. At the time of this incident, Caleb Carter was operating the tractor trailer truck for, and within the course and scope of, his employment with Central Transport Company.

9. Defendant Cherokee Insurance Company have previously resolved the property damage claim regarding the July 18, 2019, accident.

10. The July 18, 2019, accident was a covered injury, event or peril to covered property under the terms and conditions of the Policy.

11. At all times Plaintiff fully cooperated with Defendant in regards to the accident as required by the terms and conditions of the Policy.

12. Defendant unreasonably and frivolously failed and refused to make plaintiff an offer of settlement for his injury which would be consistent with the extent of such injury.

COUNT I – IMPUTED LIABILITY

13. Plaintiff realleges and incorporates herein the allegations contained in prior paragraphs as if fully restated.

14. At the time of the subject collision, Caleb Carter was under dispatch for, and/or driving within the course and scope of his employment with, Defendant Central Transport Company.

15. At the time of the subject collision, Caleb Carter was operating his truck on behalf of Defendant Central Transport Company of Evansville, Indiana.

16. Defendant Central Transport Company of Evansville, Indiana, is an Indiana based interstate trucking corporation operating a fleet of trucks. Defendant Central Transport Company of Evansville, Indiana is registered with the United States Department of Transportation, hauling general freight, for hire. Pursuant to federal and state laws, and under the doctrines of lease liability, agency, or apparent agency, Defendant Central Transport Company of Evansville, Indiana is responsible for the actions of Caleb Carter for the collision described in this Complaint.

**COUNT II – NEGLIGENT HIRING, TRAINING, & SUPERVISION
BY DEFENDANT CENTRAL TRANSPORT COMPANY**

17. Plaintiff realleges and incorporates herein the allegations contained in the prior paragraphs above as if fully restated.

18. Defendant Central Transport Company of Evansville, Indiana was negligent in hiring Caleb Carter and entrusting him to drive a commercial vehicle.

19. Defendant Central Transport Company of Evansville, Indiana was negligent in failing to properly train Caleb Carter.

20. Defendant Central Transport Company of Evansville, Indiana was negligent in failing to properly supervise Caleb Carter.

21. Defendant Central Transport Company of Evansville, Indiana was negligence in hiring Caleb Carter, entrusting him to drive a commercial vehicle, and failing to train and supervise him properly were the proximate cause of the collision at issue and the injuries to, and damage caused upon plaintiff.

COUNT III – DAMAGES

22. Plaintiff realleges and incorporates herein the allegations contained in the prior paragraphs as if fully restated.

23. As a direct result of Defendant's negligence, Plaintiff Howard was permanently disabled, rendered unable to maintain any

working for approximately 2 years (loss of earnings during such period - rendered indigent) was fatally injured.

24. As a result of Defendant's negligence, Plaintiff, as the person suffering from such injuries and damages, is entitled to recover all damages allowable under and by law, including but not limited to: the full value of lost earnings, loss of future earnings without disability created by internal injuries to plaintiff's back and neck, pain and suffering; medical bills; and any other items of special and general damages allowed by law.

COUNT IV - DIRECT ACTION

25. Plaintiff realleges and incorporates herein the allegations contained in the prior paragraphs as if fully restated.

26. Cherokee Insurance Company is subject to a direct action as the insurer for Defendant Central Transport Company of Evansville, Indiana, pursuant to Georgia's Direct Action statute, O.C.G.A. § 40-1-112.

27. Defendant Cherokee Insurance Company was the insurer of Defendant Central Transport Company of Evansville, Indiana, at the time

of the subject incident and issued a liability policy to comply with the filing requirements under Georgia law.

28. Defendant Cherokee Insurance Company is subject to the filing requirements outlined in O.C.G.A. § 40-1-112 and properly named as a Defendant herein.

29. Defendant Cherokee Insurance Company is responsible for any judgment rendered against Defendant Central Transport Company of Evansville, Indiana.

COUNT V-RECOVERY OF
INTEREST UPON DAMAGES (O.C.G.A. 4 13-6-13)

30. Plaintiff incorporate and allege by reference paragraphs 1-16 above as if the same were stated herein verbatim.

31. Pursuant to O.C.G.A. § 13-6-13, Plaintiff is entitled to, and Defendants are liable for, interest upon Plaintiff's damages sustained as a result of Defendants actions described herein.

WHEREFORE, Plaintiff pray:

- a. That process issue according to law;
- b. That Defendants be served with a copy of the Summons, Plaintiff's Complaint for Damages and Demand for Trial by Jury according to law;

- c. That Plaintiff be granted a **trial by jury** in this matter;
- d. That judgment be entered in favor of Plaintiff against Defendants for damages sustained as a result of Defendant's negligent actions identified herein in an amount to be determined by the enlightened conscience of an impartial jury;
- e. That judgment be entered in favor of Plaintiff against Defendants for **interest upon the Plaintiffs' damages pursuant to O.C.G.A. § 13-13-6**; and
- f. That Plaintiffs have such further relief as the Court deems necessary and proper.

PLAINTIFF HEREBY DEMAND A JURY TRIAL ON ALL

ISSUES SO TRIABLE.

Respectfully submitted, this 14th day of July, 2021.

BY:



Herbert H. Howard
405 Poplar Street
Grenada, MS 38901

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CLERK OF SUPERIOR COURT
MARION COUNTY, GA

2021 JUL 14 PM 12:50

Herb H. Howard
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